

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITAL ONE, NATIONAL ASSOCIATION,

Plaintiff,

-against-

201 W 134 ST LLC, GERALD MIGDOL a/k/a JERRY MIGDOL, and “JOHN AND/OR JANE DOE #1” to “JOHN AND/OR JANE DOE #5” inclusive, the last five named persons being unknown to plaintiff, the persons and parties intended being the tenants, occupants, persons, entities, or corporations, if any, having or claiming upon the premises at 201 West 134th Street a/k/a 2280 Adam Clayton Powell Jr. Boulevard, New York New York, a four-story, single dwelling building, as more fully described in the complaint,

12 Civ. 5025 (JMF)
ECF Case

Defendants.

DEFENDANTS’ MOTION TO WITHDRAW THEIR MOTION TO DISMISS

On September 14, 2012, Defendants moved for an order dismissing Plaintiff’s Amended Complaint and the Action (the “Motion to Dismiss”).

Plaintiff and Defendants have since engaged in settlement discussions and have agreed to settlement terms; Plaintiff’s counsel is in the process of drafting a settlement agreement along with other closing documents to effectuate the settlement. Plaintiff’s counsel has requested that Defendants withdraw the Motion to Dismiss without prejudice with the anticipation that the parties will settle the action next week and Defendants have agreed to do so. Plaintiff has agreed to extend Defendants’ time to answer the Amended Complaint, which will be detailed in a separate stipulation between the parties.

Due to the foregoing, Defendants hereby move to withdraw their Motion to Dismiss without prejudice. A proposed order is attached hereto.

Dated: New York, NY
November 20, 2012

Respectfully submitted,

s/
Aaron Migdol, Esq.
223 West 138th Street
Ground Floor
New York, NY 10030
aaronmigdol@migdolnyc.com
Phone: (212) 283-4423
Fax: (212) 283-4424

*Attorney for Defendants 201 W 134 ST LLC and
Gerald Migdol*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITAL ONE, NATIONAL ASSOCIATION,

Plaintiff,

-against-

201 W 134 ST LLC, GERALD MIGDOL a/k/a JERRY MIGDOL, and "JOHN AND/OR JANE DOE #1" to "JOHN AND/OR JANE DOE #5" inclusive, the last five named persons being unknown to plaintiff, the persons and parties intended being the tenants, occupants, persons, entities, or corporations, if any, having or claiming upon the premises at 201 West 134th Street a/k/a 2280 Adam Clayton Powell Jr. Boulevard, New York New York, a four-story, single dwelling building, as more fully described in the complaint,

12 Civ. 5025 (JMF)
ECF Case

Defendants.

ORDER

UPON CONSIDERATION of Defendants' Motion to Withdraw their Motion to Dismiss, it is this _____ day of _____, 2012, hereby

ORDERED that Defendants' Motion to Withdraw their Motion to Dismiss be GRANTED without prejudice.

SO ORDERED

Honorable Jesse M. Furman
United States District Judge

cc:

Aaron Migdol, Esq.
223 West 138th Street
Ground Floor
New York, NY 10030
aaronmigdol@migdolnyc.com
Phone: (212) 283-4423
Fax: (212) 283-4424

Thomas Patrick Battistoni
Schiff Hardin LLP
666 Fifth Ave., 17th Floor
New York, NY 10103
tbattistoni@schiffhardin.com
Phone: (212) 745-0877
Fax: (212) 753-5044

Patricia A. Pileggi
Schiff Hardin LLP
666 Fifth Ave., 17th Floor
New York, NY 10103
ppileggi@schiffhardin.com
Phone: (212) 745-0839
Fax: (212) 745-5044